IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL
Criminal Misc. Application No. 310 of 2005

Abdul Ghafoor
S/o Abdul Wahid Khan
Permanent R/o Mohalla Gherkate Waj Khan
Police Station Ganj,
District – Rampur
Presently posted at Police Station Gopeshwar,
District – Chamoli ... Applicant

Versus

1. State of Uttaranchal

2. Chief Judicial Magistrate,
District – Chamoli ... Respondents.

Sri Naresh Pant, learned counsel for the applicant.

Hon'ble B.C. Kandpal, J.

By way of this Petition u/s 482 Cr.P.C. the petitioner has prayed for quashing the proceedings in criminal case no. 623 of 2004 pending before the court of Chief Judicial Magistrate, Chamoli.

Brief facts giving rise to this petition are that in a case u/s 307 I.P.C. which was registered at Police Station Gopeshwar, the police submitted the chargesheet before the court u/s 307 I.P.C.

Learned counsel for the petitioner has, therefore, challenged the chargesheet by way of this petition.

Heard learned counsel for the petitioner and perused the record.

Learned counsel for the petitioner has submitted that no primefacie case is made out against the petitioner as the story narrated in the F.I.R. cannot be believed. It has also been submitted in the medical report that there is no ingredient offence u/s 307 I.P.C. against the petitioner.

I have perused the paper filed alongwith this petition and I am of the view that the ground taken by the petitioner are available to him before the court below where the chargesheet has been filed. The charges are yet to be framed against the petitioner and the petitioner has still remedy to place his arguments before the court below at the time of framing the charge.

At this stage, I do not find any flagrant injustice caused to the petitioner. I am also of the view that there has been no abuse of process of court. Learned counsel for the petitioner also could not point out anywhere that any mandatory provision of law has not been complied with by the court below.

I, therefore, do not find any force in the petition.

The petition is accordingly dismissed.

However, it is open to the petitioner to place argument in support of his case before the court below at the stage of framing the charge.

(B.C. Kandpal, J.)

21st May, 2005
Shiv